

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
LINDEMANN

Confirmation No.: 6583

Application No.: 09/806,300

Filed: May 17, 2001

Art Unit: 2618

For: REPORTING CREDIT/CHARGING
INFORMATION TO A MOBILE SUBSCRIBER

Examiner: Jackson, Blane J.

REPLY BRIEF

MS APPEAL BRIEF- PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Dear Sir:

This Reply Brief is being timely filed by right within two months of the Examiner's Answer mailed on September 2, 2008 as required under 37 C.F.R. §41.41(a), the due date for response being Monday, November 3, 2008.

The Director is authorized to charge the fee for filing a brief in support of appeal pursuant to 37 C.F.R. §41.20(b)(2). The Director is further authorized to charge any additional fees that may be due or credit any overpayment during the pendency of this application to Deposit Account No. **03-3975** under ref. no. 060258-0277884 from which the Undersigned Attorney is authorized to draw.

I. Purpose of the Reply Brief

The purpose of this Reply Brief is to respond to technical mischaracterizations by the Examiner of the applied art, US Patent 6,131,024 to Boltz and US Patent 5,784,442 to Foti, as well as an apparent misunderstanding of how a person with ordinary skill in the art would view these references and related terms of art pertinent to the claims on Appeal in light of Appellant's disclosed and claimed invention.

Appellant does not disagree with sections (1)-(7) and (11) of the Examiner's Answer.

Appellant disagrees with section (8) ("Evidence Relied Upon") because it does not include references cited in Appellant's most recent Information Disclosure Statement (IDS) and which are included, at least in part, in Appendix B of the Appeal Brief. Appellant further disagrees with sections (9) ("Grounds of Rejection") and (10) ("Response to Argument"), as discussed further below.

II. Responsive Arguments

A. Outline of Arguments

- 1. The applied art, Boltz and Foti, either alone or in combination, do not teach or suggest all the claimed limitations of independent claims 1 and 8.**
 - a. Independent Claim 1: A method which includes, *inter alia*, "sending...credit/charging information to the mobile station as a connectionless message in response to the detection of the call termination.
 - b. Independent Claim 8: An arrangement which is configured to, *inter alia*, in response to the detection of a call termination "send...credit/charging information to the mobile station as a connectionless message".
- 2. As supported by the previously submitted Evidence of Record, there is a technical and substantive difference in the telecommunications arts between "call completion" and "call termination" such that a person of ordinary skill in the art would not find Appellant's claimed invention to be obvious over the combination of Boltz and Foti.**
- 3. The applied art (Boltz) teaches away from the suggested combination because a mobile subscriber in Boltz must request credit/charging information, contrary to the Appellant's claimed invention which sends such information in response to detecting call termination.**

B. Arguments

1. The applied art, Boltz and Foti, either alone or in combination, do not teach or suggest all the claimed limitations.

For the convenience of the Honorable Board, independent claims 1 and 8 are reproduced below, with the limitations primarily of concern in this Appeal being highlighted by ***bold, italicized*** text.

1. A method for transmitting credit/charging information to a mobile station, the method comprising:

maintaining credit/charging information related to the subscriber of the mobile station in a network node;

detecting a call setup request, wherein the call setup request indicates a call chargeable to the subscriber of the mobile station but does not include said credit/charging information;

based on the call setup request, determining the credit/charging information maintained in the network node;

establishing the call;

detecting a termination of the call;

updating the credit/charging information maintained in the network node; and

sending said credit/charging information to the mobile station as a connectionless message in response to the detection of the call termination.

8. An arrangement for transmitting credit/charging information to a mobile station in a mobile telecommunications network, wherein the arrangement is configured to:

maintain credit/charging information related to the subscriber of the mobile station in a network node;

detect a call setup request, wherein the call setup request indicates a call chargeable to the subscriber of the mobile station but does not include said credit/charging information;

based on the call setup request, determine the credit/charging information maintained in the network node;

establish the call;

detect a termination of the call; and

in response to said detection, send said credit/charging information to the mobile station as a connectionless message.

According to the Examiner, the principal reference, Boltz (US 6,131,024), allegedly discloses sending credit/charging information to the mobile station as a connectionless message during call setup (see col. 4:41-58) or upon subscriber request (see col. 5:27-36). However, the Examiner admits that Boltz fails to disclose sending credit/charging information (automatically) in response to the detection of call termination.

The Examiner alleges, however, that the secondary reference, Foti (US 5,784,442), discloses a method for providing real-time billing information to the mobile subscribers in which each real-time billing (RTB) subscriber is provided with a readout of the charges for each call immediately after each call is completed (see Foti, Fig. 2, col. 5: lines 9-27 and col. 6:20-27). Foti is further alleged by the Examiner as disclosing delivery of charge messages as short messages. Appellant strenuously disagrees.

Specific Deficiencies of Boltz and Foti with Respect to the Independent Claims

The applied art, either alone or in combination, does not teach or suggest a method for transmitting credit/charging information to a mobile station, wherein the method includes, inter alia, "***...sending said credit/charging information to the mobile station as a connectionless message in response to the detection of the call termination***", as recited in independent claim 1.

Further, the applied art, either alone or in combination, does not teach or suggest an arrangement for transmitting credit/charging information to a mobile station in a mobile telecommunications network, wherein the arrangement is configured to, inter alia, "***...detect a termination of the call; and in response to said detection, send said credit/charging information to the mobile station as a connectionless message***", as recited in independent claim 8.

To summarize, the combined teachings of Boltz and Foti fail to disclose, teach or suggest Appellant's claimed invention in which a connectionless message is used to send credit/charging information to the mobile station ***in response to a determination that the call has terminated***.

Accordingly, since the suggested combination of Boltz and Foti does not teach or suggest all the claimed limitations, reversal of the rejections of claims 1-5 and 7-19 by the Honorable Board is respectfully requested.

2. As supported by the previously submitted Evidence of Record, there is a technical difference in the telecommunications arts between "call completion" and "call termination" such that a person of ordinary skill in the art would not find Appellant's claimed invention to be obvious over the combination of Boltz and Foti.

Appellant now turns to a discussion of how a person skilled in the art would interpret the term "call completion" as used by Foti. Appellants have consistently maintained that, consistent with the Evidence of Record, "call completion" means the phase in which call set-up is complete and a conversation or data transfer begins, for example, as opposed to "call termination", the technical term of art that is actually recited in Appellant's claims and which means the point after which there is no further communication between parties.

Somewhat surprisingly, the Examiner responds to Appellant's previous arguments (see the second paragraph under "(10) Response to Argument" on page 10 of the Answer) by explaining how Boltz (not Foti) uses the term "call completion". In that paragraph, which continues to the middle of page 11, the Examiner asserts that in Boltz, "call completion" (see step 260) *must* mean call termination. Appellant disagrees, as the Examiner has no technical basis for making this assertion.

The third paragraph under "(10) Response to Argument", beginning at the middle of page 11 of the Answer, begins with a statement that "Foti teaches a system for providing real time billing (RTB) information to a mobile subscriber, and is applied in combination with Boltz to teach 'sending the credit/charging information to the mobile station as a connectionless message in response to the detection of the call termination'".

At this point, it is clear that neither Boltz or Foti, taken alone, teaches the last limitation of claim 1, i.e., *"sending said credit/charging information to the mobile station as a connectionless message in response to the detection of the call termination"*, and similarly for independent claim 8, at least for the following reasons:

- The Examiner **admits** that Boltz fails to teach the last element of claims 1 and 8 (see page 4, last complete paragraph).
- The Examiner relies upon Foti at col. 5:9-27 and col. 6:20-27 for the following teaching: "a method for providing real-time billing information to the mobile subscribers wherein each real-time billing (RTB) subscriber is provided with a readout of the charges for each call immediately **after each call is completed**" (see the paragraph which begins at the end of page 4 and continues to page 5 of the Answer, **emphasis** added).
- Appellant contends that Foti's usage of "call completion" is technically and patentably distinct from "call termination" (i.e., "call completion" means that call set-up is complete and a call begins to exist or take place, as discussed further below).
- The Examiner begins his response to Appellant's previous argument (which relates to his reading of Foti) by explaining how he interprets Boltz. In essence, the Examiner argues that call completion in Boltz **must** mean call termination, in stark contrast to the technical definitions entered as Evidence in Appendix B of the Appeal. However, the Examiner admits somewhat contradictorily that Boltz fails to teach the last limitations of claims 1 and 8.
- In the third paragraph under "(10) Response to Argument", which begins at the middle of page 11, the Examiner is arguing, in effect, that Foti teaches "sending credit/charging information...in response to call completion". However, if Boltz's usage of "call completion" is applied to Foti, then Foti's teaching would appear to be equivalent to the last limitation of Appellant's independent claims 1 and 8, thus resulting in the Examiner taking an untenable technical and legal position.

In performing the above improper hindsight exercise of attempting to figuratively fit a square peg into a round hole using one inventor's apparent interpretation of "call completion" in connection with another inventor's clearly contradictory teaching, the Examiner mischaracterizes the teaching of Foti. Foti clearly teaches "sending credit/charging information... in response to **call completion**" and, as used by Foti, "call completion" is clearly both technically and patentably distinct from "call termination", particularly as disclosed and claimed by Appellant.

Appellant reiterates that, to the skilled person, "call completion" is a technical concept which means that call **set-up is complete**, and that a call (e.g., conversation and/or data transfer) **begins** to take place. Foti teaches sending credit/charging information responsive to the fact that a call begins to exist. Even assuming, *arguendo*, that the Examiner's reading of Boltz is correct, a proposition with which Appellant strenuously disagrees, it only means that Boltz uses the same

term (call completion) for a different concept (Boltz: call ends, Foti: call begins to exist). The apparent indication that Boltz and Foti assign different names to the same concept or different concepts to the same name (i.e., Appellant's "call completion") does not change Foti's actual technical teaching, i.e., sending credit/charging information responsive to the fact that a call has commenced and begins to take place.

In summary, the Examiner's hypothetical combination of Boltz and Foti mischaracterizes the teachings of Foti in a manner which is submitted as being far from obvious to a person of ordinary skill in the art and, hence, results in an improper hindsight combination of Boltz with Foti.

Accordingly, reversal of the rejections of independent claims 1 and 8 and claims depending therefrom is respectfully requested.

3. The applied art (Boltz) teaches away from the suggested combination because a mobile subscriber in Boltz must request credit/charging information, contrary to the Appellant's claimed invention.

Even assuming, arguendo, that Boltz and Foti teach that for which the Examiner offers them, i.e., the suggested equivalence of call completion and call termination (which they do not), Boltz actually and contradictorily teaches that *a mobile subscriber must specifically request the credit/charging information*. Thus, the teachings of Boltz are more relevant to the conventional art acknowledged in Appellant's own background section, with the exception that, in Boltz, the subscriber does not call an IVR unit, but instead requests the credit/charging information via a USSD or MMI message.

As a result, Boltz fails to disclose, teach or suggest sending credit/charging information to the mobile station as a connectionless message in response to a determination or detection that the call has terminated, as claimed in independent claims 1 and 8. *Rather, in Boltz, the mobile subscriber must specifically request such information by initiating a connectionless message. Such a set up is contrary to Appellant's claimed invention, which eliminates the requirement that a subscriber request the credit/charging information.* In this regard, and as correctly acknowledged by the Examiner, Boltz does not disclose, teach, or suggest sending

credit/charging information to a mobile station as a connectionless message in response to the detection of the call termination, as variously recited in independent claims 1 and 8.

Accordingly, reversal of the rejections is respectfully requested on this alternative basis.

C. Conclusion

In view of the above distinguishing arguments for patentability, reversal of the Examiner's rejections of the claims on appeal by the Honorable Board is respectfully requested.

Due Date: November 3, 2007

Respectfully submitted,

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